

P 7.16.04



**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Is re application of

Docket No: Q57226

Tohru TANAKA, et al.

Appln. No.: 09/445,963

Group Art Unit: 1642

Confirmation No.: 1604

Examiner: YU, Misook

Filed: December 16, 1999

Acct #

For: AGENT FOR DIAGNOSING AND TREATING MALIGNANT TUMORS

**AMENDMENT UNDER 37 C.F.R. § 1.111**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Responsive to the outstanding rejection of February 6, 2004, twice extended to July 6, 2004, please amend the above-identified application as follows on the accompanying pages.

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Applicants believe that there is no suggestion in the prior art of detection using a plurality of NMR.

Given the silence of the prior art upon using labeled 5-ALA in combination with NMR, clearly there is no suggestion of using the dosages claimed.

Finally, Applicants believe that there is no suggestion that when diagnosis and treatment are simultaneously carried out, the economical burden can be reduced by decreasing the isotope purity through the addition of isotope-free 5-ALA.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


Basis for the added claims is as follows:

<u>Claim(s)</u>	<u>Basis</u>
14, 15	Page 4, lines 1-3
16, 17	Page 4, last line - page 5, line 5
18-25	Page 5, lines 6-11 and line 22; page 6, line 4
26, 27	Page 6, lines 11-14
28-37	Species of independent claims

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38, 39	Page 16, lines 3-6 from the bottom of the page
40, 41	Simply to emphasize the same 5-ALA isotope is used
42, 43	Page 27, line 9
44, 45	Page 17 lines 12-16
46	Same as claim 13.

Respectfully submitted,

  
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WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

Date: June 30, 2004